

72-9-101. Title.

This chapter is known as the "Motor Carrier Safety Act."

Renumbered and Amended by Chapter 270, 1998 General Session

72-9-102. Definitions.

As used in this chapter:

- (1) (a) "Commercial vehicle" includes:
 - (i) an interstate commercial vehicle; and
 - (ii) an intrastate commercial vehicle.
- (b) "Commercial vehicle" does not include the following vehicles for purposes of this chapter:
 - (i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;
 - (ii) firefighting and emergency vehicles, operated by emergency personnel, not including commercial tow trucks; and
 - (iii) recreational vehicles that are driven solely as family or personal conveyances for noncommercial purposes.
- (2) "Interstate commercial vehicle" means a self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property if the vehicle:
 - (a) has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds;
 - (b) is designed or used to transport more than eight passengers, including the driver, for compensation;
 - (c) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
 - (d) (i) is used to transport materials designated as hazardous in accordance with 49 U.S.C. Sec. 5103; and
 - (ii) is required to be placarded in accordance with regulations under 49 C.F.R., Subtitle B, Chapter I, Subchapter C.
- (3) "Intrastate commercial vehicle" means a motor vehicle, vehicle, trailer, or semitrailer used or maintained for business, compensation, or profit to transport passengers or property on a highway only within the boundaries of this state if the commercial vehicle:
 - (a) has a manufacturer's gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds;
 - (b) is designed to transport more than 15 passengers, including the driver; or
 - (c) is used in the transportation of hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.
- (4) "Motor carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property by a commercial

vehicle on a highway within this state and includes a tow truck business.

(5) "Tow truck" means a motor vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing damaged, disabled, abandoned, seized, or impounded vehicles from a highway or other place by means of a crane, hoist, tow bar, tow line, dolly, tilt bed, or other means.

(6) "Tow truck service" means the functions and any ancillary operations associated with recovering, removing, and towing a vehicle and its load from a highway or other place by means of a tow truck.

(7) "Transportation" means the actual movement of property or passengers by motor vehicle, including loading, unloading, and any ancillary service provided by the motor carrier in connection with movement by motor vehicle, which is performed by or on behalf of the motor carrier, its employees or agents, or under the authority of the motor carrier, its employees or agents, or under the apparent authority and with the knowledge of the motor carrier.

Amended by Chapter 155, 2009 General Session

72-9-103. Rulemaking -- Motor vehicle liability coverage for certain motor carriers -- Adjudicative proceedings.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules:

(a) adopting by reference in whole or in part the Federal Motor Carrier Safety Regulations including minimum security requirements for motor carriers;

(b) specifying the equipment required to be carried in each tow truck, including limits on loads that may be moved based on equipment capacity and load weight;

(c) specifying collection procedures, in conjunction with the administration and enforcement of the safety or security requirements, for the motor carrier fee under Section 72-9-706; and

(d) providing for the necessary administration and enforcement of this chapter.

(2) (a) Notwithstanding Subsection (1)(a), the department shall not require a motor carrier to comply with 49 C.F.R. Part 387 Subpart B if the motor carrier is:

(i) engaging in or transacting the business of transporting passengers by an intrastate commercial vehicle that has a seating capacity of no more than 30 passengers; and

(ii) a licensed child care provider under Section 26-39-401.

(b) Policies containing motor vehicle liability coverage for a motor carrier described under Subsection (2)(a) shall require minimum coverage of:

(i) \$1,000,000 for a vehicle with a seating capacity of up to 20 passengers; or

(ii) \$1,500,000 for a vehicle with a seating capacity of up to 30 passengers.

(3) The department shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

Amended by Chapter 274, 2011 General Session

72-9-104. Motor carriers to operate under chapter.

A motor carrier may not operate any commercial vehicle for the transportation of

persons or property on any public highway in this state except in accordance with this chapter, and rules and orders of the department.

Renumbered and Amended by Chapter 270, 1998 General Session

72-9-105. Information lettered on vehicle -- Exceptions.

(1) Except under Subsection (4), a motor carrier shall have lettered on both sides of any vehicle used for transportation of persons or property:

- (a) the name of the motor carrier company; and
- (b) the location of domicile by city and state for an intrastate commercial vehicle.

(2) The lettering shall be free from obstruction and legible from a distance of at least 50 feet.

(3) (a) In addition to the lettering required under Subsection (1), the department may require an identification number assigned by the department to be displayed in accordance with this section.

(b) The number may be used to assist the department in conjunction with the U.S. Department of Transportation to develop a program to improve motor carrier safety enforcement.

(4) An intrastate commercial vehicle primarily used by a farmer for the production of agricultural products is exempt from the provisions of this section.

Amended by Chapter 155, 2009 General Session

72-9-106. Exemption for public utilities from regulations establishing hours of service.

(1) As used in this section, "emergency" means a condition which jeopardizes life or property or that endangers public health and safety.

(2) A person who is an employee of an electrical corporation, a gas corporation, or a telephone corporation, as these corporations are defined in Section 54-2-1, is exempt from any hours of service rules and regulations for drivers while operating a public utility vehicle within the state during the emergency restoration of public utility service.

Renumbered and Amended by Chapter 270, 1998 General Session

72-9-107. Medical exemptions for farm vehicle operators.

Except as provided in Section 53-3-206, an operator of a farm vehicle or combination of farm vehicles is exempt from additional requirements for physical qualifications, medical examinations, and medical certification if the farm vehicle or combination of farm vehicles being operated is:

- (1) under 26,001 pounds gross vehicle weight rating;
- (2) not operated as a commercial motor vehicle in accordance with Subsection 53-3-102(4)(b)(ii); and
- (3) not operated as an interstate commercial motor vehicle.

Amended by Chapter 155, 2009 General Session

Amended by Chapter 356, 2009 General Session

72-9-201. Motor Carrier Advisory Board created -- Appointment -- Terms -- Meetings -- Per diem and expenses -- Duties.

(1) There is created within the department the Motor Carrier Advisory Board consisting of five members appointed by the governor.

(2) Each member of the board shall:

(a) represent experience and expertise in the areas of motor carrier transportation, commerce, agriculture, economics, shipping, or highway safety;

(b) be selected at large on a nonpartisan basis; and

(c) have been a legal resident of the state for at least one year immediately preceding the date of appointment.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member shall serve from the date of appointment until a replacement is appointed.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term beginning the day following the expiration of the preceding term.

(5) The board shall elect its own chair and vice chair at the first regular meeting of each calendar year.

(6) The board shall meet at least quarterly or as needed when called by the chair.

(7) Any three voting members constitute a quorum for the transaction of business that comes before the board.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The board shall advise the department and the commission on interpretation, adoption, and implementation of this chapter and other motor carrier related issues.

(10) The department shall provide staff support to the board.

Amended by Chapter 286, 2010 General Session

72-9-301. Duties -- Enforcement -- Federal safety regulations -- Audits -- Rights of entry for audits.

(1) The department shall administer and in cooperation with the Department of Public Safety, Utah Highway Patrol Division, as specified under Section 53-8-105, shall enforce state and federal laws related to the operation of a motor carrier within the

state, including:

- (a) the operation of ports-of-entry under Section 72-9-501;
- (b) vehicle size, weight, and load restrictions;
- (c) security requirements;
- (d) safety requirements; and
- (e) the Federal Motor Carrier Safety Regulations as contained in Title 49, Code of Federal Regulations.

(2) (a) The department shall conduct compliance audits and inspections as needed to enforce state and federal laws related to the operation of a motor carrier.

(b) The Department of Public Safety, Utah Highway Patrol Division, and other law enforcement agencies certified by the department shall conduct inspections as needed to enforce state and federal laws related to the operation of a motor carrier.

(3) (a) In accordance with Subsection (3)(b), the department's authorized employees or agents may enter, inspect, and examine any lands, buildings, and equipment of a motor carrier subject to this chapter, to inspect and copy any accounts, books, records, and documents in order to administer and enforce state and federal laws related to the operation of a motor carrier provided:

(i) the department's authorized employees or agents schedule an appointment with the motor carrier prior to entering, inspecting, or examining any facility or records of a motor carrier; or

(ii) if the department's authorized employees or agents believe that a criminal violation is involved and that a scheduled appointment would compromise the detection of the alleged criminal violation, no appointment is necessary.

(b) A motor carrier shall submit its lands, buildings, and equipment for inspection and examination and shall submit its accounts, books, records, and documents for inspection and copying in accordance with this section.

Amended by Chapter 155, 2009 General Session

72-9-302. Interstate agreements.

(1) The department may enter into agreements with other states to allow the cooperative base state safety and insurance regulation of motor carriers transporting property or passengers in interstate commerce.

(2) An agreement may authorize another state to:

- (a) accept the filing of a certificate and affidavit of insurance;
- (b) issue a revocation, suspension, restriction, probation, and reinstatement order or notice; and
- (c) collect and disburse any fee to and from another state that participates in the base state program.

(3) An agreement may allow the exchange of information for audit, reporting, and enforcement purposes.

Renumbered and Amended by Chapter 270, 1998 General Session

72-9-303. Cease and desist orders -- Registration sanctions.

(1) The department may issue cease and desist orders to any person:

- (a) who engages in or represents himself to be engaged in a motor carrier operation that is in violation of this chapter;
- (b) to prevent the violation of any of the provisions of this title; and
- (c) who otherwise violates this chapter or any rules adopted under this chapter.

(2) (a) The department shall notify the Motor Vehicle Division of the State Tax Commission upon having reasonable grounds to believe that a motor carrier is in violation of this chapter. Upon receiving notice by the department, the Motor Vehicle Division shall refuse registration or shall suspend or revoke a registration as provided in Sections 41-1a-109 and 41-1a-110.

(b) The department shall notify the Motor Vehicle Division immediately upon being satisfied that a motor carrier, reported as being in violation under Subsection (2)(a), is in compliance with this chapter. Upon receiving notice by the department, the Motor Vehicle Division shall remove any restriction made on a registration under this chapter.

Renumbered and Amended by Chapter 270, 1998 General Session

72-9-401. Liability of motor carriers for loss or damage to freight.

(1) (a) A motor carrier receiving property for transportation from one point in this state to another point in this state shall issue a receipt or bill of lading for the property, and shall be liable to the lawful holder of the property for any loss, damage, or injury to the property caused by the motor carrier, or by any motor carrier to which the property may be delivered or over whose line or lines the property may pass within this state when transported on a through bill of lading.

(b) A contract, receipt, rule, regulation, or other limitation of any character whatsoever may not exempt the motor carrier from this liability.

(2) A motor carrier that receives property for transportation or any motor carrier delivering the property to the consignee shall be liable to the lawful holder of the receipt or bill of lading, or to any party entitled to recover on the property whether the receipt or bill of lading has been issued or not, for the full actual loss, damage or injury to the property caused by the motor carrier, or by any motor carrier to which the property may have been delivered or over whose line or lines the property may have passed within this state when transported on a through bill of lading.

(3) (a) The provisions of Subsection (2) apply notwithstanding any limitation of liability or of the amount of recovery, or any representation or agreement as to the value of the property in any receipt or bill of lading or in any contract, rule, or regulation.

(b) Any limitation of liability is unlawful and void if the provisions respecting liability for full actual loss, damage, or injury notwithstanding any limitation of liability or of recovery, or any representation or agreement or release as to value to property, except livestock, received for transportation concerning which the motor carrier expressly authorizes or requires, by order of the commission, the establishment and maintenance of rates dependent upon the value declared in writing by the shipper or agreed to in writing as the released value of the property.

(c) The declaration or agreement shall have no other effect than to limit liability and recovery to an amount not exceeding the value so declared or agreed upon.

Renumbered and Amended by Chapter 270, 1998 General Session

72-9-402. Limitation of time for presenting claims and bringing suit.

- (1) A motor carrier shall allow at least:
 - (a) 90 days for giving notice of claims for any loss, damage, or injury to property;
 - (b) four months for the filing of claims; and
 - (c) two years for the institution of suits.
- (2) If the loss or injury complained of is due to delay or damage while being loaded or unloaded, or damage in transit caused by carelessness or negligence, a notice of claim or a filing of claim is not required as a condition precedent to recovery.

Renumbered and Amended by Chapter 270, 1998 General Session

72-9-403. Contribution between connecting motor carriers.

- (1) The motor carrier paying for the loss or damage to property transported or received is entitled to recovery from the motor carrier responsible for the loss or damage, or on the motor carrier's line the loss, damage, or injury was sustained.
- (2) The amount of the loss or damage is equal to the amount the motor carrier is required to pay to the persons entitled to the recovery.

Renumbered and Amended by Chapter 270, 1998 General Session

72-9-404. Bills of lading -- Form.

Bills of lading issued by any motor carrier for the transportation of goods within this state shall conform to this chapter, rules made under this chapter, and Title 70A, Chapter 7a, Part 3, Bills of Lading -- Special Provisions, that are not in conflict with this chapter.

Amended by Chapter 42, 2006 General Session

72-9-501. Construction, operation, and maintenance of ports-of-entry by the department -- Function of ports-of-entry -- Checking and citation powers of port-of-entry agents.

- (1) (a) The department shall construct ports-of-entry for the purpose of checking motor carriers, drivers, vehicles, and vehicle loads for compliance with state and federal laws including laws relating to:
 - (i) driver qualifications;
 - (ii) Title 53, Chapter 3, Part 4, Uniform Commercial Driver License Act;
 - (iii) vehicle registration;
 - (iv) fuel tax payment;
 - (v) vehicle size, weight, and load;
 - (vi) security or insurance;
 - (vii) this chapter;
 - (viii) hazardous material as defined under 49 U.S.C. 5102;
 - (ix) livestock transportation; and
 - (x) safety.

(b) The ports-of-entry shall be located on state highways at sites determined by the department.

(2) (a) The ports-of-entry shall be operated and maintained by the department.

(b) A port-of-entry agent or a peace officer may check, inspect, or test drivers, vehicles, and vehicle loads for compliance with state and federal laws specified in Subsection (1).

(3) (a) A port-of-entry agent or a peace officer, in whose presence an offense described in this section is committed, may:

(i) issue and deliver a misdemeanor or infraction citation under Section 77-7-18;

(ii) request and administer chemical tests to determine blood alcohol concentration in compliance with Section 41-6a-515;

(iii) place a driver out-of-service in accordance with Section 53-3-417; and

(iv) serve a driver with notice of the Driver License Division of the Department of Public Safety's intention to disqualify the driver's privilege to drive a commercial motor vehicle in accordance with Section 53-3-418.

(b) This section does not grant actual arrest powers as defined in Section 77-7-1 to a port-of-entry agent who is not a peace officer or special function officer designated under Title 53, Chapter 13, Peace Officer Classifications.

(4) (a) A port-of-entry agent, a peace officer, or the Division of Wildlife Resources may inspect, detain, or quarantine a conveyance or equipment in accordance with Sections 23-27-301 and 23-27-302.

(b) The department is not responsible for decontaminating a conveyance or equipment detained or quarantined.

(c) The Division of Wildlife Resources may decontaminate, as defined in Section 23-27-102, a conveyance or equipment at the port-of-entry if authorized by the department.

Amended by Chapter 284, 2008 General Session

72-9-502. Motor vehicles to stop at ports-of-entry -- Signs -- Exceptions -- Rulemaking -- By-pass permits.

(1) Except under Subsection (3), a motor carrier operating a motor vehicle with a gross vehicle weight of 10,001 pounds or more or any motor vehicle carrying livestock as defined in Section 4-24-2 shall stop at a port-of-entry as required under this section.

(2) The department may erect and maintain signs directing motor vehicles to a port-of-entry as provided in this section.

(3) A motor vehicle required to stop at a port-of-entry under Subsection (1) is exempt from this section if:

(a) the total one-way trip distance for the motor vehicle would be increased by more than 5% or three miles, whichever is greater if diverted to a port-of-entry; or

(b) the motor vehicle is operating under a temporary port-of-entry by-pass permit issued under Subsection (4).

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the issuance of a temporary port-of-entry by-pass permit exempting a motor vehicle from the provisions of Subsection (1) if the department determines that the permit is needed to accommodate highway

transportation needs due to multiple daily or weekly trips in the proximity of a port-of-entry.

(b) The rules under Subsection (4)(a) shall provide that one permit may be issued to a motor carrier for multiple motor vehicles.

Amended by Chapter 382, 2008 General Session

72-9-503. Authority to enter agreement with other states for joint port-of-entry operation.

(1) The executive director of the department may negotiate and enter into bilateral agreements with a representative designated by a contiguous state for the construction, operation, maintenance, and staffing of a jointly occupied port-of-entry.

(2) The agreement may provide for the collection of highway user fees, registration fees, permit fees, fuel taxes, and any other fees and taxes by either state jointly occupying a port-of-entry.

(3) The agreement may provide for the enforcement of state and federal laws as provided in this chapter.

Renumbered and Amended by Chapter 270, 1998 General Session

72-9-601. Tow truck motor carrier requirements -- Authorized towing certificates.

(1) In addition to the requirements of this chapter, a tow truck motor carrier shall:

(a) ensure that all the motor carrier's tow truck drivers are properly:

(i) trained to operate tow truck equipment;

(ii) licensed, as required under Title 53, Chapter 3, Uniform Driver License Act;

and

(iii) complying with the requirements under Sections 41-6a-1406 and 72-9-603;

and

(b) obtain and display a current authorized towing certificate for the tow truck motor carrier, and each tow truck and driver, as required under Section 72-9-602.

(2) A tow truck motor carrier may only perform a towing service described in Section 41-6a-1406, 41-6a-1407, or 72-9-603, with a tow truck and driver that has a current authorized towing certificate under this part.

Amended by Chapter 2, 2005 General Session

72-9-602. Towing inspections, investigations, and certification -- Equipment requirements -- Consumer information.

(1) (a) The department shall inspect, investigate, and certify tow truck motor carriers, tow trucks, and tow truck drivers to ensure compliance with this chapter and compliance with Sections 41-6a-1406 and 41-6a-1407.

(b) The inspection, investigation, and certification shall be conducted prior to any tow truck operation and at least every two years thereafter.

(c) (i) The department shall issue an authorized towing certificate for each tow truck motor carrier, tow truck, and driver that complies with this part.

- (ii) The certificate shall expire two years from the month of issuance.
- (d) The department may charge a biennial fee established under Section 63J-1-504 to cover the cost of the inspection, investigation, and certification required under this part.
- (2) The department shall make consumer protection information available to the public that may use a tow truck motor carrier.

Amended by Chapter 183, 2009 General Session

**72-9-603. Towing notice requirements -- Cost responsibilities --
Abandoned vehicle title restrictions -- Rules for maximum rates and certification.**

(1) Except for a tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, after performing a tow truck service that is being done without the vehicle, vessel, or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier shall:

(a) immediately upon arriving at the place of storage or impound of the vehicle, vessel, or outboard motor:

(i) send a report of the removal to the Motor Vehicle Division that complies with the requirements of Subsection 41-6a-1406(4)(b); and

(ii) contact the law enforcement agency having jurisdiction over the area where the vehicle, vessel, or outboard motor was picked up and notify the agency of the:

(A) location of the vehicle, vessel, or outboard motor;

(B) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(C) reasons for the removal of the vehicle, vessel, or outboard motor;

(D) person who requested the removal of the vehicle, vessel, or outboard motor;
and

(E) vehicle, vessel, or outboard motor's description, including its identification number and license number or other identification number issued by a state agency;

(b) within two business days of performing the tow truck service under Subsection (1)(a), send a certified letter to the last-known address of the registered owner and lien holder of the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or if the person has actual knowledge of the owner's address to the current address, notifying the owner of the:

(i) location of the vehicle, vessel, or outboard motor;

(ii) date, time, location from which the vehicle, vessel, or outboard motor was removed;

(iii) reasons for the removal of the vehicle, vessel, or outboard motor;

(iv) person who requested the removal of the vehicle, vessel, or outboard motor;

(v) a description, including its identification number and license number or other identification number issued by a state agency; and

(vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

(c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding Towing established by the department in Subsection (7)(e).

(2) (a) Until the tow truck operator or tow truck motor carrier reports the removal as required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound yard may not:

- (i) collect any fee associated with the removal; or
- (ii) begin charging storage fees.

(b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor owner's or a lien holder's knowledge at either of the following locations without signage that meets the requirements of Subsection (2)(b)(ii):

- (A) a mobile home park as defined in Section 57-16-3; or
- (B) a multifamily dwelling of more than eight units.

(ii) Signage under Subsection (2)(b)(i) shall display:

- (A) where parking is subject to towing; and
- (B) (I) the Internet website address that provides access to towing database information in accordance with Section 41-6a-1406; or

(II) one of the following:

(Aa) the name and phone number of the tow truck operator or tow truck motor carrier that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or

(Bb) the name of the mobile home park or multifamily dwelling and the phone number of the mobile home park or multifamily dwelling manager or management office that authorized the vehicle, vessel, or outboard motor to be towed.

(c) Signage is not required under Subsection (2)(b) for parking in a location:

- (i) that is prohibited by law; or
- (ii) if it is reasonably apparent that the location is not open to parking.

(d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on parking.

(3) The owner of a vehicle, vessel, or outboard motor lawfully removed is only responsible for paying:

(a) the tow truck service and storage fees set in accordance with Subsection (7); and

(b) the administrative impound fee set in Section 41-6a-1406, if applicable.

(4) The fees under Subsection (3) are a possessory lien on the vehicle, non-life essential items that are owned by the owner of the vehicle and securely stored by the tow truck operator, vessel, or outboard motor until paid.

(5) A person may not request a transfer of title to an abandoned vehicle until at least 30 days after notice has been sent under Subsection (1)(b).

(6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current fees, rates, and acceptable forms of payment for tow truck service and storage of a vehicle in accordance with rules established under Subsection (7).

(b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a tow truck service under Subsection (1) or any service rendered, performed, or supplied in connection with a tow truck service under Subsection (1).

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation shall:

(a) subject to the restriction in Subsection (8), set maximum rates that:

(i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that are transported in response to:

(A) a peace officer dispatch call;

(B) a motor vehicle division call; and

(C) any other call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor stored as a result of one of the conditions listed under Subsection (7)(a)(i);

(b) establish authorized towing certification requirements, not in conflict with federal law, related to incident safety, clean-up, and hazardous material handling;

(c) specify the form and content of the posting and disclosure of fees and rates charged and acceptable forms of payment by a tow truck motor carrier or impound yard;

(d) set a maximum rate for an administrative fee that a tow truck motor carrier may charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of the removal to the registered owner and lienholder of the vehicle, vessel, or outboard motor as required in Subsection (1)(b); and

(e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains specific information regarding:

(i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

(ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(iii) identifies the maximum rates that an impound yard may charge for the storage of vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal.

(8) An impound yard may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if:

(a) the vehicle, vessel, or outboard motor is being held as evidence; and

(b) the vehicle, vessel, or outboard motor is not being released to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

Amended by Chapter 249, 2014 General Session

72-9-604. Regulatory powers of local authorities -- Tow trucks.

(1) (a) Except as provided in Subsection (1)(b), a county or municipal legislative or governing body may enact or enforce any ordinance, regulation, or rule pertaining to a tow truck or tow truck motor carrier that does not conflict with this part.

(b) A county or municipal legislative governing body may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if the county or

municipality:

- (i) is holding the vehicle, vessel, or outboard motor as evidence; and
- (ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

(2) A tow truck motor carrier that has a county or municipal business license for a place of business located within that county or municipality may not be required to obtain another business license in order to perform a tow truck service in another county or municipality if there is not a business location in the other county or municipality.

(3) A county or municipal legislative body may require an annual tow truck safety inspection in addition to the inspections required under Sections 53-8-205 and 72-9-602 if:

- (a) no fee is charged for the inspection; and
- (b) the inspection complies with federal motor carrier safety regulations.

(4) A tow truck shall be subject to only one annual safety inspection under Subsection (3). A county or municipality that requires the additional annual safety inspection shall accept the same inspection performed by another county or municipality.

Amended by Chapter 249, 2014 General Session

72-9-605. Exception from part.

This part does not apply to a person who is towing a vehicle owned by that person in a noncommercial operation.

Renumbered and Amended by Chapter 270, 1998 General Session

72-9-701. Penalty for unlawful conduct.

(1) Unless otherwise specified, any person who violates a provision of this chapter or who aids or abets another person in a violation of this chapter is guilty of a class B misdemeanor.

(2) A second or subsequent conviction for a violation of this chapter or of aiding or abetting another person in a violation of this chapter is a class A misdemeanor.

Amended by Chapter 140, 2008 General Session

72-9-702. Existing rights of action unaffected -- Penalties cumulative.

(1) This chapter may not be construed to have the effect of releasing or waiving any right of action by the state, the department or any person for any right, penalty, or forfeiture which may have arisen or occurred under any law of this state before May 10, 1983, or which arises or occurs after May 10, 1983.

(2) All penalties accruing under this chapter are cumulative, and a suit for the recovery of one penalty is not a bar to and shall not affect the recovery of any other penalty or forfeiture, and is not a bar to any criminal prosecution against any motor

carrier, or any officer, director, agent, or employee of a motor carrier, or any other corporation or person, or a bar to the exercise by the department, through the court, of its power to punish for contempt.

Renumbered and Amended by Chapter 270, 1998 General Session

72-9-703. Civil penalties for violations -- Compromise.

(1) In addition to any other penalties, a motor carrier that fails or neglects to comply with any provision of the Constitution of this state, statute, or any rule or order of the department is subject to a civil penalty of not less than \$500 nor more than \$2,000 for each offense.

(2) Every violation of any provision of the constitution of this state, statute, or any rule or order of the department, is a separate and distinct offense. Each day's continuance of the violation is a separate and distinct offense.

(3) (a) The civil penalty may be compromised by the department and a determination of compromise is appealable by the person alleged to have committed the violation. In determining the amount of the penalty or the amount agreed upon in compromise, the department shall consider the:

(i) gravity of the violation; and
(ii) good faith of the person charged in attempting to achieve compliance after notification of the violation.

(b) The amount of the penalty when finally determined or the amount agreed upon in compromise may be deducted from any sums owing by the state to the person charged or may be recovered in a civil action in the courts of this state.

(4) In construing and enforcing the provisions of this chapter relating to penalties, the act, omission, or failure of any officer, agent, or employee of any motor carrier, acting within the scope of his official duties or employment, is deemed to be the act, omission, or failure of the motor carrier.

Renumbered and Amended by Chapter 270, 1998 General Session

72-9-704. Assignment of administrative law judge.

(1) The department shall assign an administrative law judge to hear contested matters.

(2) The administrative law judge's orders shall be reviewed by the department.

Renumbered and Amended by Chapter 270, 1998 General Session

72-9-705. Disposition of fees and civil fines.

All fees and civil fines received and collected under this chapter shall be transmitted daily to the state treasurer and deposited in the Transportation Fund.

Renumbered and Amended by Chapter 270, 1998 General Session

72-9-706. Motor carrier fee for certain vehicles -- Collection.

(1) A motor carrier, not subject to the fee under Section 41-1a-1219, who

operates a commercial vehicle on a highway within this state shall pay an annual motor carrier fee at the same rate provided under Section 41-1a-1219 for each motor vehicle or combination of motor vehicles operated in this state.

(2) The department shall collect the fee required under this section.

Renumbered and Amended by Chapter 270, 1998 General Session